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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	DOCKET FILE COPY ORIGINAL
Policy and Rules Concerning Rates for Dominant Carriers)	
Revisions to Price Cap Rules for AT&T)	
)	CC Docket No. 87-313
)	
)	CC Docket No. 93-197

COMMENTS OF MCI TELECOMMUNICATIONS CORPORATION

MCI Telecommunications Corporation (MCI) respectfully submits these comments in response to the Further Notice of Proposed Rulemaking (Further Notice) released May 18, 1995, in the captioned proceeding.

As discussed below, MCI agrees with the Commission's tentative conclusion that the tariffed promotional offerings and optional calling plans of AT&T Corp. (AT&T) should remain subject to price cap regulation. Further Notice at ¶ 36. MCI also supports the Commission's proposal to place AT&T's domestic MTS services, including promotions and optional calling plans, into a separate band within Basket 1. MCI further supports allowing AT&T to file initial tariffs for alternative pricing plans on a "streamlined" basis.

The Commission has stated an intention to provide a regulatory framework that will provide a transition to further streamlining of AT&T's price cap services. Further Notice at ¶ 3. As discussed in MCI's filings in a parallel

proceeding in which AT&T is seeking to be reclassified as a non-dominant carrier, it would not be appropriate to accord AT&T such regulatory status at this time.¹ Regardless of the regulatory classification accorded AT&T, it must remain subject to certain "market rules" to which its marketplace behavior must continue to conform.² Nevertheless, despite AT&T's continued status as a dominant carrier, MCI believes that it can be accorded some measured deregulation as it progresses toward that time when it can be treated the same as non-dominant carriers.

I. Alternative Pricing Plans Should Be Included with Domestic Residential Services in Basket 1

The Commission proposes restructuring Basket 1 to include three service categories: (1) domestic basic schedule services and Optional Calling Plans and Promotions

¹ "Comments of MCI Telecommunications Corporation," American Telephone & Telegraph Co., CC Docket No. 79-252, dated June 9, 1995; and Reply Comments of MCI Telecommunications Corp., dated June 30, 1995. This is due primarily to the fact that AT&T continues to assert its ownership of key telecommunications patents, such that its exercise of any rights it might have in such patents would empower it to effectively control competition in the interexchange marketplace.

² The market rules include requirements that: (1) AT&T be restricted from "bundling" its services when one of the services is not competitive; (2) AT&T be prevented from "bundling" its services with equipment under any circumstances; (3) AT&T not receive any undue, noncost-based preferences in essential "access services" because of its size or its equipment and historic relationships with access providers; (4) All of AT&T's services be made generally available to any entity wanting them; (5) AT&T impose no unreasonable restrictions on those wishing to resell its services; and (6) The Commission adopt and implement Billed Party Preference in the "0+" market.

(newly labeled as Alternative Pricing Plans or APPs); (2) operator and credit card services; and (3) international MTS. MCI has no objection to this restructuring of Basket 1.

With the minor modifications discussed below, MCI supports the proposal to give APPs price cap credit based on 90 days of actual demand and to update the demand in a quarterly true up filing to reflect actual demand quantities sold. These measures will help ensure that AT&T's Actual Price Index (API) level reflects only the mix of products that is actually sold, consistent with the intent of price cap regulation to rely on historical demand data and to avoid forecasted data.³

AT&T has a base of residential customers who lack the ability or opportunity to take advantage of its alternative pricing plans and who, therefore, pay more for their services. Other AT&T customers may have calling volumes that are too low or variable to allow them to qualify for these alternative pricing plans. Those of its customers who do not or cannot avail themselves of AT&T's special pricing arrangements provide a substantial cushion for AT&T to subsidize any "losses" it might otherwise suffer from

³ The Commission elected to use Laspeyres indexes, which use historical period weights, for its price indexes precisely because the use of historical quantities would avoid the controversies that use of projected demand would create. See Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Report and Order and Second Further Notice of Proposed Rulemaking, 4 FCC Rcd 2873 (1989) at 3023 (para. 308).

customers who are taking advantage of alternative pricing plans.

AT&T's pricing practices with respect to promotions and optional calling plans demonstrate that it can use its market power to the detriment of these residential customers. Competition alone cannot prevent AT&T from engaging in unreasonable practices. Moreover, the complaint process is not an effective deterrent because these customers may not even realize that they are being treated unfairly or may not know how to pursue a claim through the FCC's complaint processes. Therefore, the Commission must continue to provide incentives, where effective, and to impose requirements, where necessary. Including APPs in the domestic MTS category within Basket 1 using historical rather than projected demand will limit AT&T's ability to increase basic rates to support APPs.

II. The Commission Should Allow AT&T To File Tariffs for Alternative Pricing Plans on Fourteen Days' Notice

The Commission proposes to allow AT&T to file APPs initially on a streamlined basis, without extensive cost support, outside of price cap regulation. Further Notice at ¶ 38. Under the proposal, a streamlined APP would expire automatically 90 days after its effective date unless AT&T were to file a transmittal to include the APP as a permanent offering under price cap regulation. The transmittal would need to include actual cost and demand revenues for the

initial 90-day period and would be subject to tariff review and approval.

MCI believes that it would not be inconsistent with the public interest if AT&T were allowed to file its APP tariffs on fourteen days' notice.⁴ Under current requirements, promotional rates must be filed on 45 days' notice. During the past few years, AT&T has generally been allowed either to reduce this filing period by grant of special permission or to advance the effective date of promotional offerings. As a result, most of these rate changes have taken effect on less than 45 days' notice.

To MCI's knowledge, AT&T's MTS tariff filings are infrequently protested, let alone rejected. The fourteen days' notice requirement should allow AT&T to change its residential offerings as necessary to meet its competitive needs, while also allowing interested parties an opportunity, albeit brief, to review and respond to its tariff proposals.⁵

⁴ New services other than APPs should continue to be filed on 45 days' notice, with the showing of increased net revenues currently required under price caps. This additional review period continues to be necessary to minimize the risk of unreasonable discrimination, cross-subsidization or anticompetitive behavior and is fully consistent with the Commission's statutory requirements under Sections 201(b) and 202(a) of the Communications Act.

⁵ Under the Commission's current rules, fourteen-day tariff filings must be protested, if at all, within six days of the date they are filed, and "service" of such protests must be made personally or by facsimile. This same rule would apply to all AT&T tariff filings.

III. Existing Promotions Should Be "Grandfathered" at Current Levels

The Commission has asked how to treat promotions that are currently in effect. Further Notice at ¶ 50. These promotions include AT&T's collection of "True" promotional pricing plans.

MCI recommends that these promotions be "grandfathered" at their existing levels and that AT&T should not be allowed to obtain any additional price cap credit for them. Should AT&T choose to make these offerings permanent, MCI would not object to their remaining in the APIs at their current levels.

IV. The Commission Must Distinguish APPs from New Services

The Commission proposes to modify its existing rules applicable to new services to clarify that they do not apply to APPs. Further Notice at ¶ 46. New services will continue to be introduced on 45 days notice. In addition, there are significant differences in price index calculations, depending on whether a service is labeled a new service or an APP.

MCI notes that the definition of new services is sufficiently similar to the definition of APPs that AT&T could self-define the introduction of new services to be APPs and thereby benefit from the streamlined regulatory treatment. MCI, therefore, urges the Commission "to tighten" its definition of new services so that AT&T could

not introduce services under the guise of APPs; new services should, of course, be subject to the full panoply of regulation.

V. The Commission Must Revise the Price Cap Rules To Accommodate Changes for Alternative Pricing Plans

The Commission states that the tariff revisions which include any APPs under price caps would be subject to the provisions of Section 61.49 of its rules, and that AT&T would receive index credit on the date that the tariff revisions placing the APP under price caps takes effect. Further Notice at ¶ 55. However, there are two modifications of Section 61.49 which must be made to accomplish what the Commission apparently intends.

First, under the existing rules, incorporating an existing APP into an API would have no effect on the value of the API. The API formula is adjusted by the ratio of proposed rates to existing rates, both priced out at existing demand. Because in most cases the proposed APP rate would also be the existing rate, this ratio would be one, and the API would be unchanged. The Commission must clarify that, for purposes of rolling the APP rates into the API, the "existing rates" are the generally available rates, which the APP rates are discounting.

Second, the existing Section 61.49 rules require the use of demand from the previous calendar year in setting the weights used in the APIs. In the case of APPs, the

Commission proposes that AT&T must use actual demand from the previous 90 days, annualized. The Commission must adjust its rules to reflect this different time period used for the demand for APPs.

The Commission must also clarify whether the demand for the existing service which the APP is discounting should also be deducted from the demand used in the weights in the API for that existing service. If AT&T offers a promotion which is a reduction from the basic MTS schedule, some of the demand for that service is presumably coming from the customers who were previously buying from the basic schedule. It is unclear from the Commission's proposal whether it intends for AT&T to deduct any of the demand from the existing basic schedule to reflect this. Deducting the demand would have the effect of further reducing the relative weight in the API of the basic schedule rates, thereby increasing the effect on the index of the price change due to the APP.

VI. Conclusion

Therefore, for the reasons stated above, MCI supports the Commission's proposal to include alternative pricing plans in the domestic MTS category within Basket 1. MCI also would not object to allowing AT&T to file APP tariffs on a streamlined basis. And, MCI submits, promotions currently in effect should be grandfathered in Basket 1 with

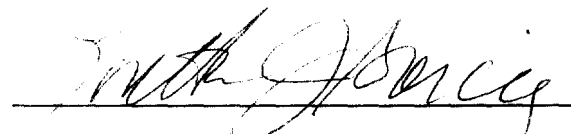
no additional impact.

Finally, MCI's failure at this time to specifically address the other proposals the Commission has made in the Further Notice should not be interpreted as either concurrence or disagreement with them. MCI reserves its right to address these proposals in reply comments herein or in presentations before the Commission.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Vernell V. Garey, hereby certify that the foregoing "COMMENTS" in CC Dockets 87-313, CC Docket No. 93-197 was served this 30th day of June, 1995, by mailing true copies thereof, postage prepaid, to the following persons at the addresses listed below:

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